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7 JOEL M. CRAM, and
8 MINH D. NGUYEN, individually,
9 and on behalf of all others similarly situated

10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 JOEL M. CRAM, and
13 MINH D. NGUYEN, individually, and on behalf of
14 all others similarly situated,

15 Plaintiffs,

16 v.

17 ELECTRONIC DATA SYSTEMS
18 CORPORATION, a Delaware corporation,

19 Defendant.

Civil Action Number:

07-CV-1842 LAB (NLS)

**PLAINTIFFS' SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF
FINAL APPROVAL OF PROPOSED
SETTLEMENT**

NAME OF JUDICIAL OFFICER:

Hon. Larry A. Burns

COURTROOM NUMBER:

9 (Second Floor)

DATE AND TIME OF HEARING:

1 DECEMBER 2008
11:45 a.m.

1 This Supplemental Memorandum in Support of Final Approval of Proposed Settlement is
 2 filed on behalf of Mr. Joel M. Cram, and Mr. Minh D. Nguyen (**hereinafter collectively the**
 3 **“Plaintiffs”**):

4 **I. PRELIMINARY STATEMENT**

5 At the 18 August 2008 hearing on preliminary approval, Class Counsel inquired of the Court
 6 whether the Court desired that a new motion for final approval be filed, or whether the Court would
 7 prefer that only a supplemental memorandum be filed (insofar as the criteria for final approval are
 8 identical to the criteria for preliminary approval, except that, on final approval, a court is to consider
 9 the reaction of class members to the proposed settlement). Class Counsel understood the Court to
 10 accept Class Counsel’s suggestion that the initial, preliminary approval motion papers would be
 11 carried over to the final approval hearing, and that no new motion for final approval was required.

12 On 5 September 2008, this Court approved the parties’ Joint Motion for Order Modifying
 13 Dates, *Etc.*, which sought Court approval to extend through and including Monday, 17 November
 14 2008, the deadline for Class Members to object to the proposed settlement, or to request exclusion
 15 from the Plaintiff Class. (*See*, Joint Motion, at Docket Entry No. 127; *cf.*: Order, at Docket Entry
 16 No. 128.) The modified schedule requested by the parties, and approved by the Court, allowed the
 17 Claims Administrator one week – *i.e.*, through and including Monday, 24 November 2008 – to
 18 provide a declaration evidencing the number of requests for exclusion, if any, and the number of
 19 objections to the proposed settlement, if any. (*See*, Joint Motion, Docket Entry No. 127, at 3:1-15.)
 20 Accordingly, it was not until Monday, 24 November 2008, that Class Counsel could provide a
 21 definitive report of the reaction of class members to the proposed settlement.
 22

23 **II. REACTION OF THE CLASS MEMBERS**

24 As noted at the 18 August 2008 hearing on preliminary approval, the criteria for final
 25 approval are identical to the criteria for preliminary approval, except that, in relation to final
 26 approval, a court is to consider the reaction of class members to the proposed settlement. In granting
 27 preliminary approval, this Court necessarily found that *prima facie* evidence of all elements for final
 28

1 approval was present (with the exception of the reaction of class members to the proposed
2 settlement, which cannot be known at the preliminary approval stage). Accordingly, in the absence
3 of any objection, the sole issue to be addressed by the instant Supplemental Memorandum is the
4 reaction of the Class Members.

5 As evidenced by the accompanying declaration of Mr. Jonathan Paul, the Claims
6 Administrator mailed the Court-approved Notice Packet to all Class Members on 17 October 2008.
7 (*See*, Paul Declaration, at ¶¶ 7, 9.) It appears that all 275 Notice Packets were delivered to the
8 intended recipients, as none of the Notice Packets have been returned by the U.S. Postal Service.
9 (*See*, Paul Declaration, at ¶¶ 11, 12.)

10 The Claims Administrator has received zero (0) requests for exclusion, and zero (0)
11 objections to the proposed settlement. (*See*, Paul Declaration, at ¶¶ 17, 18.)

12 No objections to the proposed settlement have been filed with the Clerk of the Court, and
13 none have been received by Class Counsel. (*See*, accompanying Gallo Declaration, at ¶ 4.)

14 Accordingly, the reaction of the Plaintiff Class to the proposed settlement is overwhelmingly
15 favorable, and all criteria for final approval have now been established.

16 **III. PROPOSED FORM OF ORDER**

17 The parties' jointly-proposed form of order was lodged via e-mail contemporaneously with
18 the filing of the instant Supplemental Memorandum.

19 **CONCLUSION**

20 WHEREFORE, Plaintiffs request that this Court grant final approval of the proposed
21 settlement.

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1 Dated: 24 November 2008

Respectfully submitted,

2 DAVID J. GALLO, ESQ.
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7 /s/ David J. Gallo

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12 behalf of all others similarly situated
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CERTIFICATE OF ELECTRONIC SERVICE

I, DAVID J. GALLO, hereby certify that, upon electronic filing hereof, I have effected electronic service of the preceding document upon all parties who have appeared in the above-captioned civil action, in the manner authorized by CivLR 5.4(c).

/s/ David J. Gallo
DAVID J. GALLO

[EDS-SETTLEMENT_MPA_short_FINAL_APPROVAL_01DEC08.wpd]